

History of fractionation

Inter-Tribal Monitoring Assoc.

June 26, 2008

- General Allotment Act of 1887

- Stated an authorized general policy of allotment - specific acts implemented allotment after negotiation with affected Tribes.

- General provisions - 160 acres to each family head, 80 acres to every single person over 18, 40 acres to single person under age 18

General Provisions, cont

- Deed issued to every allottee but held in trust for 25 years during which land could not be alienated (after 25 years fee patent to be issued);
- Surplus lands after allotment to tribal members were to be ceded to govt and most often opened up for non-Indian settlement;
- 1906 legislation allowed alienation before 25 years upon “competency of allottee” and also allowed fee patent upon death of allottee

Allotment, cont

- Between 1887 and 1934, 118 reservations allotted; 219 reservations by end of allotment
- From 1887 to 1900 – U.S. approved 53,168 allotments totaling 5 million acres
- By 1920 – 36 million acres had been allotted
- By 1934 – approximately 27 million acres, 2/3 of lands allotted had passed by sale of involuntary transfer into non-Indian ownership

Nationwide status of Fractionation

June 2003 – 2.3 million fractionated interests

March 2005 – 3.4 million fractionated interests
(3.1 purchasable interests)

March 2008 – 4.2 million interests (3.6 million
interests purchasable)

Fractionated Interests, cont.

- Total number of fractionated interests less than 2%
 - March 2005 – 2.4 million
 - March 2008 – 3 million
- Total number of interests less than 5%
 - March 2005 – 2.7 million
 - March 2008 – 3.2 million

Indian Land Consolidation Project

- 385,862 interests equivalent to 543,542.77 acres returned to tribal ownership
- 100% tribal ownership on 428 tracts
- 10 or less owners on 509 tracts
- Tribal majority ownership on 7,704 tracts
- \$129 million paid to landowners

Strategies to Address Fractionation

- Funding to continue the Indian Land Consolidation Project
- Educate Tribes and individuals on utilizing purchase authority at probate
- Government assistance to tribes to utilize existing Tribal consolidation authority under ILCA
- New legislation to allow acquisition of Whereabouts Unknown interests

Possible strategies, cont.

- Develop legislation to restrict a landowner's ability to split interests in trust land at sale or by will
- Rescind DOI policy to discontinue will drafting on behalf of individual Indians
- Develop policy to offer incentive to acquire small interests that have minimal FMV